

# Committee on Resources

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Testimony

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United States House of Representatives

"Reauthorizing the Compacts of Free Association with  
Micronesia and the Marshall Islands"

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Mr. Chairmen and Members of the Committees,

Thank you for this opportunity to testify on the recently submitted Compact Act of Free Association with the Federated States of Micronesia (FSM) and with the Republic of the Marshall Islands (RMI).

## The Original Compact

The original 15 years of Compact funding authorization for the FSM and RMI ended in Fiscal Year 2001. The Compact provisions provided an extension for up to two years through September 30, 2003, as long as Compact negotiations progressed. The original Compact successfully met its main goal of providing for a stable transition from United Nations Trusteeship to sovereign self-government for the FSM and RMI. At the same time, the Compact protected U.S. security, maritime, and commercial interests in the Pacific by assuming defense responsibilities for the vast sea and air space of the Freely Associated States (FAS) including Palau -- and by ensuring access to important defense sites operated by the Department of Defense on Kwajalein Atoll in the Marshall Islands.

The original Compact was also successful in transforming the relationship between these islands and the United States into one of our closest bilateral relationships. We now number the FSM and RMI among our staunchest friends in the United Nations. These achievements are solid and lasting, and the American and FAS peoples can be justly proud of them.

## Current Compact Assistance

The U.S. currently provides assistance to the FSM and RMI in three ways: through financial assistance under the Compact; through programs and services that are included in the Compact, such as the services and related programs of the U.S. Weather Service, the Postal Service, and the Federal Aviation Administration; and through programs apart from the Compact that are funded, as Congress sees fit, by other federal agencies. The U.S. currently provides about \$160 million annually in financial assistance to the FSM and RMI, 80 percent from the Compact and 20 percent from other federal agencies outside of the Compact, such as the Departments of Education, Health and Human Services, Labor, and Agriculture.

The past seventeen years have witnessed recurring problems stemming from the lack of accountability and the sometimes ineffective use of Compact Funds. Therefore, a principal task of the recently signed agreements to amend the Compact is to improve the effectiveness and accountability of these funds. Moreover, we have agreed to put an increasing percentage of the annual U.S. Compact assistance into a trust fund that will provide an ongoing source of revenue to the two countries when annual payments by the United States end in 2023.

## Reasons to Continue Compact Assistance

The United States has strong interests in these countries that justify continued economic assistance under the Compact through FY 2023 and the contributions to the trust fund, provided this assistance is structured and managed as proposed. These interests include:

- Advancing economic self-reliance. (In this regard, the United States will continue its commitment to the economic strategies that the RMI and FSM have developed with the support of the United States, the Asian Development Bank (ADB), the International Monetary Fund, and our partners in the ADB Consultative Group, including Japan and Australia);
- Improving the health, education, and social conditions of the people of the RMI and FSM;
- Sustaining the political stability and close ties which we have developed with these two emerging democracies;
- Ensuring that our strategic interests continue to be secured, including access to our important defense sites on the Kwajalein Atoll;
- Putting in place and contributing to a trust fund that will provide an ongoing source of revenue when annual payments by the United States end in 2023;
- Strengthening immigration provisions in the wake of the September 11th attacks and addressing various problems that have arisen since the Compact was first approved by the U.S. Congress; and
- Mitigating the impact of immigration under the Compact on Hawaii, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

## Economic Assistance

The Administration recognizes that too sharp a reduction in U.S. assistance at this stage of economic development of the RMI and the FSM could result in economic instability and other disruptions, and could encourage an increase in the level of immigration under the Compact to the United States by citizens of those countries. We continue to believe that providing substantial financial and other assistance under the Compact will help to ensure economic stability while the RMI and FSM continue to implement economic development and reform strategies.

The Compact, as amended, provides for continued economic assistance from Fiscal Year 2004 through Fiscal Year 2023. Furthermore, the economic package provides for annual contributions to a trust fund that will provide an ongoing source of revenue, to be used for the same purposes as the previous grant assistance when the annual grant assistance ends in Fiscal Year 2023. Federal services and program assistance also continues, if provided by Congress.

## Compact Funding

Compact funding will ensure economic and social stability and a smooth transition to Fiscal Year 2024 when annual payments from the U.S. will have terminated and the trust fund becomes a source of revenue.

Beginning in Fiscal Year 2007, the FSM sector grants decrease by \$800,000 per year through Fiscal Year 2023, with this decrease added to the trust fund.

The RMI will receive \$30.5 million in sectoral grants, \$5.2 million for Kwajalein impact, and \$7 million for its trust fund annually beginning in Fiscal Year 2004.

Beginning in Fiscal Year 2005, the RMI sectoral grants decrease by \$500,000 per year through Fiscal Year 2023, with this decrement added to the trust fund.

These amounts are partially adjusted for inflation: two-thirds of the implicit price deflator will be applied as in the original Compact period.

Under the Compact, as amended, the U.S. contributions to the trust funds are conditioned on the FSM contributing at least \$30 million to the FSM trust fund prior to September 30, 2004 and the RMI contributing

at least \$25 million to the RMI trust fund on the effective date of the Trust Fund Agreement or October 1, 2003, whichever is later, and \$2.5 million prior to October 1, 2004 and another \$2.5 million prior to October 1, 2005.

Under the Compact, grant assistance will be used for six sectors, with priorities in the education and health sectors and tied to specific outcomes and purposes and monitored by the Department of the Interior.

Misuse of Compact funds can lead to withholding of funds until the problem is resolved. The FSM and the RMI have agreed to cooperate with the United States on criminal investigations regarding misuse of funds, if necessary.

The Administration is putting in place an effective accountability mechanism with respect to future U.S. economic assistance to the FSM and the RMI under the Compact. Economic assistance will no longer be made available through transfers that co-mingle U.S. funds with local funds, thereby rendering it difficult to track and monitor their use. Instead, future funds under the Compact will be provided through targeted, sectoral assistance, each with a clearly defined scope and objectives.

In the amended Compacts, the FSM, RMI, and U.S. have agreed that any future grant assistance will be used in six sectors:

- health,
- education,
- infrastructure,
- private sector development,
- public sector capacity building, and
- the environment.

Built into each sectoral grant will be regular planning, monitoring, and reporting requirements. The amended Compacts also provide the necessary authority and resources to ensure effective oversight and reasonable progress toward the agreed objectives.

#### Trust Fund

A major element of the new Compact provisions is the termination of annual mandatory payments to the FSM and the RMI at the end of Fiscal Year 2023 -- and the establishment of a trust fund to provide an ongoing source of revenue starting in Fiscal Year 2024. In its earlier proposals to the U.S., both the FSM and RMI anticipated the U.S. interest in the termination of mandatory annual financial assistance by proposing that the U.S. capitalize a trust fund over the next term of Compact assistance. Under the amended Compact, the Administration has agreed that annual U.S. financial assistance will terminate at the end of Fiscal Year 2024, and thereafter the trust fund will provide an ongoing source of revenue. Congress has previously authorized and funded the use of similar trust funds, including one established under the Compact with the Republic of Palau, and several established in the Marshall Islands as compensation for the U.S. nuclear weapons testing program.

#### Federal Services and Program Assistance

With a few notable exceptions, Federal program coordination and oversight of Compact Funds has been ineffective. We are committed to putting in place a more effective system of coordinating and monitoring that assistance during the amended Compact period.

#### Kwajalein MUORA Extension

As part of the amended Compact, the United States and the Republic of the Marshall Islands have agreed to a long-term extension of the Military Use and Operating Rights Agreement (MUORA) for the Ronald Reagan Ballistic Missile Defense Test Site on Kwajalein Atoll. The Reagan Test Site (RTS) serves a key role in research, development, test and evaluation for the Administration's high-priority missile defense and space programs.

Although the current Military Use and Operating Rights Agreement covering U.S. use of these defense sites runs through 2016, in November 2001, RMI President Note reaffirmed the RMI's willingness to consider a long-term extension of U.S. use of Kwajalein Atoll for our defense needs. Subsequently, the RMI Government proposed that the ongoing negotiations to amend the Compact of Free Association provided a convenient forum to consider amendments extending the Military Use and Operating Rights Agreement. Following consultations with the Department of Defense, the Administration decided to pursue such an extension, if agreement could be concluded on acceptable terms, and negotiations on this issue would not delay our efforts to obtain agreement on amendments to the Compact.

Sections 211 and 212 of Title Two of the Compact, as amended, and the MUORA, as amended, provide for the following:

The parties agree to extend the MUORA for a period of fifty years from 2016 (the current expiration date) to 2066, with a U.S. option to extend it for an additional twenty years to Fiscal Year 2086.

To achieve the flexibility necessary to permit the long-term extension of the agreement, the two sides agreed to a schedule of early termination payments if the United States chooses to leave Kwajalein before the end of the agreement. This outcome could be exercised anytime after 2023, on advance notice of at least seven years.

As Compensation:

These agreements establish a new series of Kwajalein payments beginning in Fiscal Year 2004 (October 1, 2003) at a level of \$15 million per year (increased from the current \$11.3 million) with a further increase to a new base of \$18 million in 2014. The United States Government is obligated in any case to make payments through Fiscal Year 2023, and thereafter, depending on whether it chooses to continue its use of Kwajalein Atoll. The RMI has assured us that it will endeavor to ensure that payments to landowners are distributed more equitably than they have been in the past in a manner consistent with Marshallese custom and tradition.

The U.S. will continue paying the \$1.9 million per year in Kwajalein impact money established in the current agreement. However, beginning in Fiscal Year 2004, this payment, which has not previously been adjusted for inflation, will be subject to the provisions of the new Compact Fiscal Procedures Agreement, will be indexed for inflation based on the formula established in the amended Compact, and emphasis will be on addressing the special needs of the Kwajalein landowners most affected by the United States presence on Kwajalein.

Pursuant to the Compact, U.S. Army Kwajalein Atoll (USAKA) has developed, in cooperation with the RMI Environmental Protection Authority, a strong set of environmental standards and a formal process to review these standards annually and report to both governments. To promote a greater RMI capability for independent analysis of the Survey's findings and conclusions, the U.S. will provide an annual grant of \$200,000 to support increased participation of the GRMI EPA in the Survey.

For some years now, overcrowding on the Kwajalein island of Ebeye, where most of the Marshallese work force supporting the defense sites lives, has created an unmet series of special infrastructure needs for the Marshallese Communities on Ebeye and some other islands of the Kwajalein Atoll. This agreement will address these needs in the following way:

First, the U.S. and the RMI have agreed that \$3.1 million per year of the RMI grant funding will go towards meeting the special infrastructure and development needs of the Marshallese communities on Kwajalein Atoll. In 2014, this funding will increase to \$5.1 million per year. These funds are indexed according to the Compact Title Two formula.

Second, considering the \$1.9 million impact funding mentioned above, which is specified by the Compact to offset the impact of U.S. defense activities on Kwajalein Atoll, together with the Ebeye special needs funding, \$5 million per year (increasing to \$7 million in 2014), all of which will be focused on improving the quality of life of the Marshallese communities on Kwajalein, starting October 1, 2004.

In sum, the Administration feels that extending the MUORA, in concert with the provisions of the amended Compact, will promote the economic stability and opportunity of the RMI for the indefinite future.

## Immigration

Based on our mixed experience since the Compact took effect, as well as in the wake of the September 11th attack, we have reexamined the immigration provisions of the existing Compact. Section 141(a) provides that citizens of the RMI and FSM "may enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States" without regard to certain grounds of inadmissibility under the Immigration and Nationality Act (INA). Our examination and the subsequent negotiations concluded that the immigration provisions should be amended to:

Require FAS citizens seeking admission under the Compact to use passports.

Clarify that immigrant visa procedures, rather than Compact nonimmigrant admission, are necessary and appropriate for child adoption cases.

Limit Compact entry privileges of naturalized FAS citizens to a greater degree.

Preclude use of passport sales and similar programs from serving as a means for persons from countries other than the FSM and the RMI to obtain visa-free admission privileges under the Compact.

Make more explicit the authority of the Government of the United States to regulate the terms and conditions of FSM or RMI citizens' admission and stay in the United States, including its territories and possessions.

Make explicit that the INA applies in full to persons seeking admission to, or the right to remain in, the United States pursuant to the Compact.

Provide Compact admission privileges to the immediate relatives of FAS citizens in U.S. military service, whether or not the relatives are FAS citizens.

Streamline the documentation that FAS citizens may use as evidence of work authorization in the United States.

Under the Compact, as amended, the United States will now require passports for FSM and RMI citizens seeking admission as nonimmigrants to the United States. Further, naturalized citizens of the FSM and RMI will, with certain limited exceptions, now be ineligible for visa-free admission to the United States. In addition, the Compact, as amended, provides other safeguards to prevent the admission under the Compact of persons from other countries who might seek to exploit the visa-free immigration privileges intended for the citizen population of the FAS. It addresses explicitly the problem of passport sales and other naturalization schemes designed to provide visa-free admission privileges to persons from countries other than the FSM and the RMI under the Compact. The Compact, as amended, also provides express safeguards for FSM and RMI children who are coming to the United States permanently pursuant to an adoption, or for the purpose of adoption, by requiring that those children possess an immigrant visa. This clarifies the existing U.S. interpretation of the Compact, and brings the provisions relating to the Freely Associated States into harmony with that pertaining to children from other countries concerning child adoptions and protections available to adopted children.

## Impact

Section 104(e)(2) of the existing and amended Compact statutes requires the President to report annually to Congress on the impact of the Compact. A recent GAO study documents the substantial impact of FAS migration to the State of Hawaii, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI). The amended Compact and other proposed amendments to the Compact Act address the migratory impact issue in three ways:

First, we will provide \$15 million per year of direct compensation to Hawaii, Guam, American Samoa, and the CNMI for the negative impacts of migration.

Second, the amended Compacts strengthen immigration provisions to improve our ability to regulate RMI and FSM migrants who are eligible for admission.

Third, the amended Compacts focus on areas such as improving the health and education of, and private sector jobs for, potential migrants, thereby reducing the impact of migration under the Compact.

The annual impact funding of \$15 million will be:

a mandatory appropriation for twenty years.

allocated based on a pro rata formula reflecting a periodic census of Micronesians living in Hawaii, Guam, American Samoa, and the CNMI.

#### Palau

The Compact of Free Association between the United States and Palau is not up for review at this time. We believe, however, that it makes sense for us to bring the immigration, labor and trade provisions of the Palau Compact into line with those agreed with the RMI and FSM. In addition, Palau has sought a change to the communications provision to make its telecommunications carrier eligible to participate in the National Exchange Carriers Association and the Universal Services Support Fund. Negotiations are underway on these issues. If we reach agreement, the Administration will submit these amendments to the Congress.

#### Conclusion

Thank you for this opportunity to present the Administration's views on the Compact Act with the FSM and RMI. Let me assure you that we welcome any and every opportunity to keep the Committee informed as your deliberations proceed on the Compact Act.